Minute Entry Lisi, C.J. September 22, 2008

United States District Court District of Rhode Island

In Re: Kugel Mesh Hernia Products Liability Litigation Multidistrict Litigation (MDL 1842)

> MDL DOCKET NO. 07-1842-ML All Cases

The monthly status conference was held on September 8, 2008. The conference was transcribed. The Court met with counsel and discussed the items listed on the agenda (docket # 1318).

Document production status report

Defense counsel reported that its discovery vendor has 2,600,000 documents loaded and 754,000 "hits" based on Plaintiffs' counsel's search terms. Of the 754,000 documents identified, Defense counsel has reviewed 389,000 documents. Defense counsel reported that it currently has 17 document reviewers reviewing approximately 500 documents per day. If the Defendants maintain the current rate of review, Defense counsel estimated that they would complete document review before December 1, 2008. Before the next monthly meeting, the parties will confer in an attempt to identify a deadline for the completion of document production. In its cover letter to Plaintiffs' counsel accompanying the monthly document production, Defense counsel will report the total number of documents included in the production. Defense counsel will also determine whether it can identify, for Plaintiffs' counsel, instances when it is producing documents that have already been produced in an earlier production.

Confidentiality

Plaintiffs' counsel again brought to the Court's attention what counsel believes to be inappropriate confidentiality designations by Defense counsel. The Court reminded Defense counsel that its document reviewers should be aware of the protective order and should be able to identify confidential documents. Defense counsel shall remind its reviewers to make a careful assessment as to whether a document is confidential.

Identification of 10 non-ring break cases for early neutral settlement/evaluation

The parties have identified 10 non-ring break cases for early neutral settlement/evaluation. Plaintiffs' counsel shall forward a listing of those cases to the Court. At the next monthly meeting the Court will identify the judicial officer facilitating the early neutral settlement/evaluation process for these cases. Once discovery is concluded on a case, Defense counsel shall identify, to Plaintiffs' counsel and to the Court, those cases that it believes have no settlement value, if any. If the Court determines that the early neutral settlement evaluation

process is an exercise in futility, the Court will begin the process of marking those cases filed in the District of Rhode Island for trial.

Two of the cases identified as non ring-break cases were discussed. The Dillon case was originally identified as a ring break case but has subsequently been reclassified as a non-ring break case. Plaintiffs' counsel will confer with counsel in the Anglon case to determine whether appropriate dismissals can be attained so that the Anglon case may be included in the early neutral settlement evaluation process.

Plaintiffs' Steering Committee

Plaintiffs' counsel informed the Court that two attorneys wish to join the Plaintiffs' steering committee. Defense counsel does not object to the addition to the steering committee. Plaintiffs' counsel shall file the appropriate motion with the Court.

Judge Gibney's August 26, 2008, decision regarding Defendants' retaining treating physicians as consultants

Defendants have filed a motion to enforce the amended CMO and to permit communication with consulting surgeons who are also treating physicians. The motion is not yet ripe for review by the Court. Once the matter becomes ripe for review the Court will inform the parties of a hearing date.

Pending Motions Update

Plaintiffs' motion to remand in <u>Palmer</u>: If the parties cannot resolve the matter, the Court will schedule it for a hearing after the next monthly meeting.

Defense counsel withdrew the motions to show cause in the Legoe and Gracyk cases. The Smith case has been dismissed by Plaintiffs' counsel. Plaintiffs' counsel will contact counsel in the Walker and Garret cases by September 12, 2008, to inform counsel of outstanding issues with regard to the motion to show cause.

Williams Kherkher

Defense counsel informed the Court that it received a Plaintiff's fact sheet from counsel from Williams Kherker. Defense counsel reported that counsel from Williams Kherkher had not filed an entry of appearance. Defense counsel also informed the Court that there are other instances where counsel from Williams Kherker has informed Defense counsel that Williams Kherkher would file motions to dismiss, or motions to withdraw as counsel, but have not yet done so. Plaintiffs' counsel will contact counsel from Williams Kherkher in an attempt to rectify these matters. Defense counsel will withdraw the motions to show cause in the Walters and Heurta cases.

Other

The parties informed the Court that they are being informed by the MDL panel that some cases are not related to the MDL in spite of counsel's belief that the cases are within the scope of the MDL. The Court informed the parties that the Court did not have any authority over the MDL panel and the best practice may be to continue filing motions to reconsider and include a copy of the order outlining the scope of the MDL.

Unless otherwise directed by the Court, the Court should not be copied on communications between the parties.

Next Meeting

The next meeting of the Court, Plaintiffs' liaison counsel, and Defendants' counsel will be on October 7, 2008, at 1:00 p.m. in Room 307 in the United States District Courthouse, Providence, Rhode Island.